

AMERICAN SETTLERS IN OREGON.

The bill to protect the rights of American settlers in the Oregon Territory being under consideration, and the pending question being to refer the bill to the Committee on the Judiciary, with instructions—

Mr. CASS addressed the Senate as follows:

I did not intend, Mr. President, again to trouble the Senate upon any question, connected with our claim to Oregon, or with the proper course of policy to adopt in support of it. And I avowed to those friends with whom I am in the habit of free consultation, this determination to remain silent, believing I had occupied my full share of the attention of the Senate, and of the public, so far as the public can be interested in any views of mine. I am now, however, compelled to break the silence, I had imposed upon myself, and again to vindicate the position in which I am placed. The honorable Senator from Missouri has referred to me by name, and if I would not seem to abandon the ground, I have occupied, I must defend it from this new and vigorous assault. I shall, however, be brief; avoiding recapitulation, and confining myself almost exclusively to two of the propositions submitted by the Senator,—one entirely new, the other presented in the previous discussion, but again brought forward, though with new facts and illustrations, and extended to more remote regions. The former is the assertion of the non-existence of the line of 54° 40', and the latter the assertion, that the parallel of 49° was established as a boundary between the British and French possessions, by commissaries under the treaty of Utrecht, and that it ran to the northwest coast.

The Senator commenced by the work of demolition—pulling down before he built up—clearing off the rubbish occasioned by the labor of others, to procure a fair site, preparatory to the task of re-edification. And how has this system of destruction and of substitution been effected? The process and the result I propose to examine.

In the first place, he announces, that till now we have all been in error, including the President, and Congress, and the country, and that no such line as the parallel of 54° 40' has ever been established as the northern boundary of Oregon, and he considers that this correction of a great popular error is enough to "quiet the excitement, which has been got up about it." I fear, sir, that the honor-

able Senator deceives himself, and that this excitement, as he terms it, or this conviction of the extent and justice of our title, as I term it, is far beyond the reach of any new reading of old documents, however gigantic may be the intellect which puts itself to the task of giving out and vindicating a new system of national rights, or any new evidence in support of them. The honorable Senator is as competent to the performance of this labor, as any one among us. But, sir, when a great question like this has occupied the attention of an enlightened country and Government, in some mode or other, for almost half a century, and more recently has called into its service the heads and tongues and pens of hosts of able men in public and in private life, the discovery and promulgation of new views, giving an unexpected direction to a great controversy, is not indeed impossible, but is so far improbable, that he, who claims the title and the reward of a discoverer, must expect to have his pretensions investigated with much care, and admitted with much caution. The honorable Senator, in the exultation of anticipated success, speaks of the *philosophy of the fifty-four-forties*, and says "there is an end of that question! All gone—vanished—evaporated into thin air—and the place where it was, not to be found." And then comes the parturition of the mountain, and the birth of the mouse.

It is a good old fable, intended to convey a useful truth. But it is somewhat dangerous in its application, especially when he, who appeals to it, in the very act of decrying the labor of another, announces *ex cathedra* the value of his own. Pulling down to build up! annihilating one line to establish another! There is such a thing as putting the saddle on the wrong horse.

The honorable Senator says, "there is no boundary at 54° 40'." I quote his very words, and join issue with him. If there is not, I shall then confess, that I for one am liable to all the sneers he casts upon the fifty-four-forties, as he calls them, and upon their cause; while, if there is, I shall leave to the honorable Senator the position he has assumed.

And whence this declared popular error, respecting the boundary line of 54° 40'? It originates, says the Senator, in the treaty with Russia, concluded in 1824, the third article of which he quotes—

"Art. 3. It is moreover agreed, that, hereafter, there shall not be formed, by the citizens of the United States, or under the authority of the said States, any establishment upon the northwest coast of America, nor in any of the islands adjacent, to the north of fifty-four degrees forty minutes north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel."

Now, sir, this, one would think, is clear enough. Here is fifty-four forty, established as a boundary, as plainly as words and types can establish it, beyond which the claim of the United States cannot extend. It is the northern limit, across which we cannot go. We may march up to it; with that Russia has no concern. But the moment we attempt to put foot over it, we shall be met by this convention, and our plighted faith not to pass it. If this is not a boundary to us, I am sure I do not know what boundary we can have, there or anywhere else. It is a point not to be discussed. It gains no strength by argument, no clearness by illustration. *It is a boundary line*; and when that is said, all is said. I am well aware it is a line in *posse*, and not in *esse*, established upon paper, and not actually marked upon the surface of the globe. But so is most of the boundary between us and the British possessions, and between us and Mexico. And the Senator himself, in his argument, where he undertakes to prove the establishment of the parallel of 49°, as the line fixed under the treaty of Utrecht, expressly says it was established but not run. It was nevertheless a great line of demarcation, whose effects are said to be felt upon the rights of nations at this day. All boundaries between countries, which are not natural lines or marks, must be first fixed by diplomatic arrangement, and when this is done, their establishment upon the earth becomes a question of fact, and is usually committed to scientific persons, who give practical effect to the labors of the diplomatists. If, therefore, the parallel of fifty-four forty should remain a paper instead of a visible boundary till doomsday, it would nevertheless be a barrier, beyond which we could not pass, and might at any time be ascertained by astronomical observations, and marked upon the ground, should such a measure become necessary to assert the jurisdiction of the one party, or to arrest that of the other.

After quoting the third article of our treaty with Russia, the honorable Senator proceeds to quote the third article of the treaty between Russia and England, regulating their mutual pretensions to the same region. And he controls the construction of one treaty, by what legitimate process I know not, by the provisions of the other. He says, and strangely too, that "they are identical in objects, and nearly in terms." *Identical in objects!* Why, sir, one is a treaty between the United States and Russia for the adjustment of their mutual pretensions, and the other is a treaty between England and Russia for the adjustment of their pretensions. Until it is shown, that American pretensions and English pretensions are the same, the identity of the objects of these treaties will be among the discoveries, that are yet to be made. "*Nearly identical in terms!*" This, sir, is almost an equal mistake. To show it, I will quote this third article of the Anglo-Russian treaty:

"Art. 3. The line of demarcation between the possessions of the high contracting parties upon the coast of the

continent and the islands of America, to the northwest, shall be drawn in the manner following: commencing from the southernmost point of the island, called Prince of Wales' Island, which point lies in the parallel of 54° 49', and the 133d degree of west longitude, (meridian of Greenwich,) the said line shall ascend to the north, along the channel called Portland Channel as far as the point of the continent, where it strikes the 58th degree of north latitude; from this last mentioned point to the point of intersection of the 141st degree of west longitude, will prove to be at the distance of more than ten marine leagues from the ocean; the limit between the British possessions and the line of coast which is to belong to Russia as above-mentioned, shall be formed by a line parallel to the windings of the coast, and which shall never exceed the distance of ten marine leagues therefrom. And the line of demarcation shall follow the summit of the mountains, situated parallel to the coast, as far as the point of intersection of the 141st degree of west longitude, (of the same meridian,) and finally from the said point of intersection the said meridian line of the 141st degree on the prolongation, as far as the Frozen ocean, shall form the limit between the Russian and British possessions on the continent of America to the northwest."

Now, sir, I do not quote this article, because it has the slightest bearing upon our claim, or ought to have upon our investigation of its extent; but to show the mistake, into which the honorable Senator has been led, when he considers these two articles as identical, either in their objects or in their terms. They are almost as dissimilar in the one, as in the other. The effort of Russia was the same. It was to procure a recognition from the only parties, whose claims interfered with hers, of her title to that part of the country. This she effected by a stipulation with the United States, that they would assert no pretensions north of 54° 40' generally, and a stipulation with England, that she would assert none north of the same line, and west of ten marine leagues from the coast. On her part, Russia relinquished all her pretensions south of 54° 40', but without touching the conflicting claims of the other parties, leaving them to adjust these in their own manner as they would, or as they could; and both England and the United States are as free this day to assert each its own title, and to oppose that of its adversary, as they were before the execution of these conventions with Russia.

I therefore remove from this discussion all the honorable Senator has said respecting the objects, the terms, and the effect of this treaty between England and Russia. We were no parties to it. It was formed a year after our treaty with the latter Power, and we had just as much right to regulate the descent of the crowns of Russia and England, as those Powers had to regulate our right to the Oregon territory. In fact, they assumed no such monstrous pretensions. And I must confess my surprise, that their arrangements are introduced here, as binding or controlling our territorial claims. And yet these two articles are placed by the honorable Senator in juxtaposition, as though they were parts of the same instrument, and his deductions respecting our rights seem to be drawn from one or the other indiscriminately: so much so, that the Senator actually says, "I have shown you the limits as established with Russia in 1824; I have produced the *treaties* (not treaty) which establish them, and here, also, is a map, which illustrates them, and shows everything precisely as I have read it from the *treaties*," (not treaty.) He then proceeds to point out errors, which it is not neces-

sary to examine, for they have reference exclusively to the treaty between Great Britain and Russia, and not to that between Russia and the United States. Our treaty merely provides that the parallel of $54^{\circ} 40'$ shall be our northern boundary. Now, what have the errors of geographers or map makers, in the protraction of the line between Russia and England, to do with the plain undeniable boundary which limits our possessions?—a boundary so plain, indeed, that he who runs may read it in the treaty. What, therefore, is the direction of the other line—the Anglo-Russian line—which the Senator has discussed, and whether it goes to 55° , or 56° , or 61° , or, indeed, to the north pole, touches us as little as any other question in political geography.

Then, sir, fifty-four forty is resuscitated, brought to life—an existing boundary, to which we may go, but beyond which we may not pass. We can *jam up to it* without any imputation upon our wisdom or our honor; “*and the place where it was*” is *yet there*, and *there it will continue to be*.

It will be recollected, sir, that the honorable Senator has staked this issue upon the existence of this line of $54^{\circ} 40'$; and when we point to the Russian treaty, he attempts to meet us by his construction of a treaty, and of the causes that led to it, between Russia and England. We repudiate this, and refuse to have our line *annihilated* without our consent.

The line, then, exists, though the honorable Senator says it is confined by the precise terms of the treaty “to the islands and coasts,” and having no manner of relation to the continent.” And again: “This is the Russian line on the continent ‘with Great Britain: the United States have no continental line, either with Russia or Great Britain.’”

Strange assertions, as I shall show. Were this even so, still we should have our favorite line, though it might stop short of the eastern extent of our claim, and though the honorable Senator says we have “no boundary at $54^{\circ} 40'$.” But where does this line stop in its easterly progress? The honorable Senator says it does not touch the “continent.” Why he makes it an insular boundary, in the very face of an express stipulation, that it shall extend to the “islands and the coasts.” I know not. As he gives no reasons for this limitation of the natural construction of the article—not, indeed, its natural construction merely, but its express and positive declaration—I must be permitted to believe, that *coast* is the *coast* of the continent, and the islands “the islands adjacent to it.” Adjacent to what? To the coast. To what coast? To the *northwest coast* of America. The treaty recognises two geographical divisions—the coast, or continent, and the adjacent islands. The honorable Senator says it is confined to the islands, and does not extend to the continent, or coast. I cannot argue this point.

By each of these conventions, he says, “*the Russian claim is confined to the coasts and islands; and by each the same limit is given both to the United States and Great Britain,*” &c. “*It was a limit ‘wholly in the water, not at all on the land; the British only reached it by going through Portland Channel.*”

I do not understand this at all, sir. The Senator one moment says that the United States and Great Britain have *both the same limit*; in the next, that our line never touches the land, but the British line does. The fact is, they have not the same line at all. Ours is the parallel of $54^{\circ} 40'$, continental and insular, for the distinction of the Senator between the two is wholly gratuitous, unknown to the convention. The British line commences at a point on that parallel, and then quits it, running thence such courses, as give to Russia an irregular parallelogram, extending north and south along the coast, and east in width ten marine leagues from the sea.

But what is the meaning of the phrase *northwest coast of America* in this connexion? To what extent may it be fairly said to reach? In the British treaty, as above quoted, the question is placed beyond controversy. The Russian possessions, as between England and Russia, are limited to ten marine leagues from the coast. As between Russia and us there is no limitation, and if a limitation be sought, it must be found in the circumstances and in a fair application of the language to them.

It is a geographical fact, well known to all, who have investigated the subject, that the *northwest coast of America* is the name, by which a large but indefinite region upon the shores of the Pacific, extending eastward without positive limits, was designated and recognised, as well in works of geography and history, as in diplomatic documents. It was a descriptive term, applied to a vast country. I shall place this beyond controversy, by reference to unquestionable authorities.

In the very convention with England of 1818, by which a joint occupation of Oregon is held, the whole country itself is distinguished by this appellation:

“It is agreed that any country, that may be claimed by either party on the *northwest coast of America* westward of the Stony Mountains,” &c.

And twice in that instrument the *said country* is alluded to. And it will be seen, that this designation carries the region described by it to the Rocky Mountains; or, in other words, designates the whole country by that comprehensive term.

In the British statement, annexed to the protocol of the sixth conference, by Messrs. Huskisson and Addington, British Plenipotentiaries in the negotiation of 1826-'27, it is said:

“The Government of Great Britain, in proposing to renew for the term of ten years the third article of the convention of 1818, respecting the *territory on the northwest coast of America west of the Rocky Mountains,*” &c.

“Spain ceded to the United States all their rights and claim on the *western coast of America*, and north of the 42d degree.”

In the Nootka Sound convention, the country generally is called the *northwest coast*.

In the counter statement by Mr. Gallatin, he speaks of the “territory in question,” and he says:

“That by the Nootka convention, all the parts of the *northwest coast of America*, occupied by either party,” &c.

Using the terms *territory* and *northwest coast* as convertible, and designating the same country.

“Finally,” says Mr. Rush, in the history of his residence at the Court of London, page 372, “it was agreed that the country on the *northwest coast of America*, westward of the Rocky Mountains, ‘claimed by either party,’ &c.

Mr. Adams, in a letter to Baron Tuyl, dated May 7, 1823, speaks of the "rights and interests which have been brought into collision upon the *northwest coast*."

In the instructions from Mr. Adams to Mr. Middleton, dated 23d July, 1823, he describes the country as the *northwest coast*. He says:

"A Russian charter gave to the American Company the *northwest coast of America*, from 55° to Bliering's Straits."

He further says, in a letter to Mr. Middleton:

"You are authorized to propose an article of the same import for the term of ten years, for the signature of a joint convention between the United States, Great Britain, and Russia."

He says, in the same letter to Mr. Rush:

"If the British Northwest and Hudson's Bay Company have any posts on the *coast*, as suggested in the article in the Quarterly Review, above cited, the third article of the convention of the 20th October, 1818, is applicable to them. Mr. Middleton is authorized to propose an article of similar import to be inserted in a joint convention between the United States, Great Britain, and Russia, for a term of ten years from its signature. You are authorized to make the same proposal to the British Government; and with a view to draw a definite line of demarcation for the future, to stipulate that no settlement shall hereafter be made on the *northwest coast*, or on any of the islands adjoining, by Russian subjects south of latitude 55°; by citizens of the United States north of 51°; or by British subjects either south of 51° or north of 55°."

"For it showed," says the honorable Senator from Missouri, in a speech in 1842, "that the British had no rights on the *northwest coast*." "It was not until we discovered the Columbia, that she renewed her claim to any territory on the *northwest coast*." "Our title is good against England throughout the *coast*," &c.

This language is conclusive. It is obvious, that the whole *northwest coast*, or Oregon, is referred to; and the parties claiming it are recognised as the United States, Great Britain, and Russia. A division of their respective pretensions is proposed by east and west lines, thus separating the region into three districts, lying respectively north or south of one another. There is no difference in the description of their claims. Insular or continental, they are all the same in their eastern extension.

These proofs, that the descriptive appellation *northwest coast* was applied generally to the country north of California, and west of the Rocky Mountains, might be multiplied almost indefinitely; but it is not necessary; the examples already given establishing the fact beyond controversy. If, therefore, the honorable Senator from Missouri seeks to confine the epithet *northwest coast* to the narrow region within sight and sound of the surges of the ocean, he seeks a construction and contraction, inconsistent with the historical geography of the country, as well as with the rights and intentions of the parties. Our *northwest coast*, which is now our Oregon, by the arrangement with Russia, cannot extend north of 54° 40', and her *northwest coast* cannot extend south of that line. The longitudinal extent of either is a question, that does not concern the other. Our claim in that direction is from the Pacific to the Rocky Mountains. Russia, since her treaty with us, has entered into a convention with England, by which she restricts her claim to an extent of ten marine leagues from the coast. Before that, she was free to carry her title to the Rocky Mountains, the eastern boundary of the

northwest coast. This subsequent arrangement neither affects our rights nor our duties, and 54° 40' is yet the barrier, beyond which we cannot pass.

What would be the condition of the parties if Russia had formed no convention with England? What right should we then have to say, that the Russian pretensions do not extend over the whole of the country of the *northwest coast*, but are limited to ten marine leagues from it? None whatever. And how can a subsequent convention, between other parties, regulate a prior instrument, to which we were a party? When we made an arrangement with Russia, our country of the *northwest coast* stretched to the Rocky Mountains. We promised that Power, that we would not pass the parallel of 54° 40' in our northern progress. What right have we to say that Russia did not mean, by the same descriptive words, what we meant, or that that Power did not assert any claim over the country designated by them? The *northwest coast* for her, says the honorable Senator, is the islands adjacent to it; while for us it is the whole country to the Rocky Mountains! Our duties are to be judged by existing circumstances, and not by subsequent arrangements between different parties. With the motives of Russia, or the consideration, which England gave her for the cession, we have no concern. Had the former Power ceded her whole claim to the latter, our obligations would have remained the same, the benefit being transferred to England, instead of being held by Russia. 54° 40', we said to Russia, is our line in the country of the *northwest coast*, and there I hope we shall be found.

But if the honorable Senator from Missouri should succeed in the establishment of his position, that we are not bounded on the north by this parallel of 54° 40', I do not see, that the *little band* is in any worse condition, or the pretensions of the country at all diminished; for the former seems to me intimately connected with the latter; but quite the contrary. In that event, we should fall back upon our original Spanish title, and carry our claim to the parallel of 61°. Our arrangement with Russia was an agreement to take less than the claim we could rightfully urge, as the grantees of the Spanish Government.

The honorable Senator, in the further prosecution of his argument, that we have no claim to fifty-four forty, says that we offered that line to Russia, as her southern boundary, and to England as her northern. He then refers to the proposition made by Mr. Rush, who offered 51° as our northern boundary, and says we now seek to go *jam* up to 54° 40', after the offer of 51°, which was refused by England.

Why, sir, all this history of the negotiation is well known, and I must confess I do not see its bearing upon the peculiar views presented by the Senator. He is seeking to show the inconsistency of the American Government in urging a claim to 54° 40', after having offered to accept the parallel of 51° as our northern boundary. But why select this offer for this purpose? We have made a much more favorable one for England, which she has more than once refused. We have offered 49°, and as late as the last season. If these changes are proofs of inconsistency, the last being the greatest, furnishes the strongest evidence of it. I re-

peat, sir, what new view is presented by going back to the offer of Mr. Rush in 1823, when that of Mr. Buchanan, in 1845, yielded two degrees more of latitude?

But there was not the slightest inconsistency, then, nor is there any now. This branch of the subject has been already fully debated, and I have no disposition to renew the discussion. These offers were all offers of compromise, made in a spirit of concession, and not the assertion of a claim; and, when rejected, the party making them was at full liberty to urge its whole title, unembarrassed by these efforts at conciliation, and without being obnoxious to the charge of inconsistency. And this was recognised and distinctly stated to the British Government by Mr. Gallatin in 1827, who said, that "his Government did not hold itself bound hereafter in consequence of any proposal 'which it had made for a line of separation between the territories of the two nations beyond the Rocky Mountains, but would consider itself at liberty to contend for the full extent of the claims of the United States.'" Here, sir, the American Government, in 1827, maintained, that the offers thus made and rejected did not reach to the extent of their full claims, but, that being rejected, we were at liberty to fall back upon our original title, as though these attempts at compromise had not been made. What right, then, has the honorable member from Missouri to charge the American Government with inconsistency, because it offered 51° and then 49°, and these offers being refused, and all efforts at compromise hopeless, now urges the full extent of its claim, as it announced in 1827 it would do?

Before proceeding further, sir, I desire to remove from this discussion the honored names of Jefferson and Madison. On a former occasion, I stated the circumstances, under which they acted, and explained, I thought sufficiently, why their sentiments and course imposed no rule of conduct on us, in the new situation, in which we are placed, unknown to them. They sought the northern limits of Louisiana, and their extension west to the Pacific. And they found some historical memorandum, stating that the parallel of 49° had been established under the treaty of Utrecht, as a dividing line between the French and British possessions on the American continent. They were indeed aware that the subject was doubtful; for Mr. Madison, in his first instructions, instead of asserting the fact, as the honorable gentleman from Missouri thinks he did, says: "there is reason to believe it;" and he says still further, "you will perceive the necessity of recurring to the proceedings of the commissaries as the source of authentic information." "These are not within our reach here," &c. And this was before our purchase of the Spanish claim, which perfected and completed our title. The course these eminent statesmen pursued was the best under the then existing circumstances. What they did not possess, we have acquired. What they did not know, we have discovered. We have extended our claim by a new purchase, and we have ascertained, what Mr. Madison appears to have suspected, that the historical statement, respecting the establishment of the parallel of 49°, at any rate west of the Rocky Mountains, is

incorrect, and that no such line exists. And the same remark applies, although to a less extent, to the cabinets of Mr. Monroe, and of Mr. Adams, both of whom have been appealed to by the Senator from Missouri in support of his position. Florida was not purchased, until towards the close of the first term of Mr. Monroe, and after that time the notion, that the 49th parallel had been established under the treaty of Utrecht, and extended perhaps west of the Rocky Mountains, may have produced some impression. But it is obvious, that it did not permanently influence the course of the Government. For Mr. Rush offered the 51st parallel, as a compromise line for our boundary; and Mr. Gallatin, as I have already said, repudiated the early offers, and went back to the whole claim.

Now, sir, where is this monstrous inconsistency and injustice, which the honorable Senator sees in the assertion of our claim by the present Administration north of the 49th? If the cabinet of Mr. Adams believed we were concluded by the treaty of Utrecht and by a line established under it, how came they to pass beyond that line, and to offer as a compromise two degrees of latitude north of it, indicating by the very offer itself, that our just claim went beyond that limit? And what was meant by the *semi-protest* of Mr. Gallatin, announcing that the preceding proposals—those of 51 and 49—having been rejected, his Government would now contend for the full claims of the United States? These full claims of course went beyond 51°; and having got so far on the north side of 49°, and so near 54° 40' with the cabinet of Mr. Adams, I shall leave to the honorable Senator from Missouri the task of reconciling their conduct with the belief, that this barrier of 49° rises like a great fortification to check our further progress in a northern direction.

The Senator from Missouri has again submitted his views, respecting the establishment of the parallel of 49°, under the treaty of Utrecht. In the former discussions his object was to vindicate the truth of history, and to redeem the character of the American Senate from the charge of ignorance. He expressly stated he made no practical application of the main fact. Now the ground seems to be changed. The Senator says that my endorsement of Mr. Greenhow's error in a *blundering book*, "lays him under the necessity of correcting a third error, which the fifty-four-forties hug to their bosoms."

We do not claim any exemption from the ordinary frailties of humanity. If we hug to our bosoms the rights and interests of our country, we can bear to be sneered at, though at the same time we may be permitted to investigate the facts and the deductions, by which the charges against us are so confidently urged.

I shall not go over this matter of the treaty of Utrecht. I am unwilling even to allude to it again. But I cannot be driven from my position, or surrender it, without defence. I shall, however, touch the topic very briefly, confining myself to the new views presented by the Senator from Missouri.

The Senator says, that my endorsement of Mr. Greenhow's blunders has rendered this vindication necessary. In the first place, I have not endorsed

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northwest coast. This subsequent arrangement neither affects our rights nor our duties, and 54° 40' is yet the barrier, beyond which we cannot pass.

What would be the condition of the parties if Russia had formed no convention with England? What right should we then have to say, that the Russian pretensions do not extend over the whole of the country of the *northwest coast*, but are limited to ten marine leagues from it? None whatever. And how can a subsequent convention, between other parties, regulate a prior instrument, to which we were a party? When we made an arrangement with Russia, our country of the *northwest coast* stretched to the Rocky Mountains. We promised that Power, that we would not pass the parallel of 54° 40' in our northern progress. What right have we to say that Russia did not mean, by the same descriptive words, what we meant, or that that Power did not assert any claim over the country designated by them? The *northwest coast* for her, says the honorable Senator, is the islands adjacent to it; while for us it is the whole country to the Rocky Mountains! Our duties are to be judged by existing circumstances, and not by subsequent arrangements between different parties. With the motives of Russia, or the consideration, which England gave her for the cession, we have no concern. Had the former Power ceded her whole claim to the latter, our obligations would have remained the same, the benefit being transferred to England, instead of being held by Russia. 54° 40', we said to Russia, is our line in the country of the *northwest coast*, and there I hope we shall be found.

But if the honorable Senator from Missouri should succeed in the establishment of his position, that we are not bounded on the north by this parallel of 54° 40', I do not see, that the *little band* is in any worse condition, or the pretensions of the country at all diminished; for the former seems to me intimately connected with the latter; but quite the contrary. In that event, we should fall back upon our original Spanish title, and carry our claim to the parallel of 61°. Our arrangement with Russia was an agreement to take less than the claim we could rightfully urge, as the grantees of the Spanish Government.

The honorable Senator, in the further prosecution of his argument, that we have no claim to fifty-four forty, says that we offered that line to Russia, as her southern boundary, and to England as her northern. He then refers to the proposition made by Mr. Rush, who offered 51° as our northern boundary, and says we now seek to go *jam* up to 54° 40', after the offer of 51°, which was refused by England.

Why, sir, all this history of the negotiation is well known, and I must confess I do not see its bearing upon the peculiar views presented by the Senator. He is seeking to show the inconsistency of the American Government in urging a claim to 54° 40', after having offered to accept the parallel of 51° as our northern boundary. But why select this offer for this purpose? We have made a much more favorable one for England, which she has more than once refused. We have offered 49°, and as late as the last season. If these changes are proofs of inconsistency, the last being the greatest, furnishes the strongest evidence of it. I re-

peat, sir, what new view is presented by going back to the offer of Mr. Rush in 1823, when that of Mr. Buchanan, in 1845, yielded two degrees more of latitude?

But there was not the slightest inconsistency, then, nor is there any now. This branch of the subject has been already fully debated, and I have no disposition to renew the discussion. These offers were all offers of compromise, made in a spirit of concession, and not the assertion of a claim; and, when rejected, the party making them was at full liberty to urge its whole title, unembarrassed by these efforts at conciliation, and without being obnoxious to the charge of inconsistency. And this was recognised and distinctly stated to the British Government by Mr. Gallatin in 1827, who said, that "his Government did not hold itself bound hereafter in consequence of any proposal which it had made for a line of separation between the territories of the two nations beyond the Rocky Mountains, but would consider itself at liberty to contend for the full extent of the claims of the United States." Here, sir, the American Government, in 1827, maintained, that the offers thus made and rejected did not reach to the extent of their full claims, but, that being rejected, we were at liberty to fall back upon our original title, as though these attempts at compromise had not been made. What right, then, has the honorable member from Missouri to charge the American Government with inconsistency, because it offered 51° and then 49°, and these offers being refused, and all efforts at compromise hopeless, now urges the full extent of its claim, as it announced in 1827 it would do?

Before proceeding further, sir, I desire to remove from this discussion the honored names of Jefferson and Madison. On a former occasion, I stated the circumstances, under which they acted, and explained, I thought sufficiently, why their sentiments and course imposed no rule of conduct on us, in the new situation, in which we are placed, unknown to them. They sought the northern limits of Louisiana, and their extension west to the Pacific. And they found some historical memorandum, stating that the parallel of 49° had been established under the treaty of Utrecht, as a dividing line between the French and British possessions on the American continent. They were indeed aware that the subject was doubtful; for Mr. Madison, in his first instructions, instead of asserting the fact, as the honorable gentleman from Missouri thinks he did, says: "*there is reason to believe it;*" and he says still further, "*you will perceive the necessity of recurring to the proceedings of the commissaries as the source of authentic information.*" "*These are not within our reach here,*" &c. And this was before our purchase of the Spanish claim, which perfected and completed our title. The course these eminent statesmen pursued was the best under the then existing circumstances. What they did not possess, we have acquired. What they did not know, we have discovered. We have extended our claim by a new purchase, and we have ascertained, what Mr. Madison appears to have suspected, that the historical statement, respecting the establishment of the parallel of 49°, at any rate west of the Rocky Mountains, is

incorrect, and that no such line exists. And the same remark applies, although to a less extent, to the cabinets of Mr. Monroe, and of Mr. Adams, both of whom have been appealed to by the Senator from Missouri in support of his position. Florida was not purchased, until towards the close of the first term of Mr. Monroe, and after that time the notion, that the 49th parallel had been established under the treaty of Utrecht, and extended perhaps west of the Rocky Mountains, may have produced some impression. But it is obvious, that it did not permanently influence the course of the Government. For Mr. Rush offered the 51st parallel, as a compromise line for our boundary; and Mr. Gallatin, as I have already said, repudiated the early offers, and went back to the whole claim.

Now, sir, where is this monstrous inconsistency and injustice, which the honorable Senator sees in the assertion of our claim by the present Administration north of the 49th? If the cabinet of Mr. Adams believed we were concluded by the treaty of Utrecht and by a line established under it, how came they to pass beyond that line, and to offer as a compromise two degrees of latitude north of it, indicating by the very offer itself, that our just claim went beyond that limit? And what was meant by the *semi-protest* of Mr. Gallatin, announcing that the preceding proposals—those of 51 and 49—having been rejected, his Government would now contend for the full claims of the United States? These full claims of course went beyond 51°, and having got so far on the north side of 49°, and so near 54° 40' with the cabinet of Mr. Adams, I shall leave to the honorable Senator from Missouri the task of reconciling their conduct with the belief, that this barrier of 49° rises like a great fortification to check our further progress in a northern direction.

The Senator from Missouri has again submitted his views, respecting the establishment of the parallel of 49°, under the treaty of Utrecht. In the former discussions his object was to vindicate the truth of history, and to redeem the character of the American Senate from the charge of ignorance. He expressly stated he made no practical application of the main fact. Now the ground seems to be changed. The Senator says that my endorsement of Mr. Greenhow's error in a *blundering book*, "*lays him under the necessity of correcting a third error, which the fifty-four-forties hug to their bosoms.*"

We do not claim any exemption from the ordinary frailties of humanity. If we *hug to our bosoms* the rights and interests of our country, we can bear to be sneered at, though at the same time we may be permitted to investigate the facts and the deductions, by which the charges against us are so confidently urged.

I shall not go over this matter of the treaty of Utrecht. I am unwilling even to allude to it again. But I cannot be driven from my position, or surrender it, without defence. I shall, however, touch the topic very briefly, confining myself to the new views presented by the Senator from Missouri.

The Senator says, that my endorsement of Mr. Greenhow's blunders has rendered this vindication necessary. In the first place, I have not endorsed

Mr. Greenhow's assertions or conclusions, be they blunders or be they truths. With respect to the only point, made by the Senator before, the establishment of the parallel of 49° east of the Rocky Mountains, I expressly stated it was a subject upon which reasonable men might differ. I stated that the positive and negative evidence, produced by Mr. Greenhow, had induced me to believe, that no such line had been run, but I expressly disclaimed the very endorsement, which the gentleman now charges upon me. But I will add, that all my subsequent examination and reflection have fortified this belief, and I am more and more convinced, that the assertion, respecting the establishment of this line, is an historical error, which should be removed from all our debates on this subject.

In the second place, the honorable Senator has renewed this discussion for a new purpose, not before avowed. It is now not alone with a view to vindicate history, and to redeem the character of the Senate, as on the former occasion; but also for a much more important object—for the *establishment of a political right*. The subject ceases to be one of speculation, and becomes one of action. This line is now pushed across the Rocky Mountains, and is interposed as a barrier to the extension of the territorial claim, which our Government has asserted.

Before I proceed further, allow me to say that the fifty-four-forties occupy the negative side of this position. The proof must come from their opponents. It is said that our claim is limited by the parallel of 49°. The existence of a claim is conceded on all hands. In its extension north, it is met by the assertion, that its further progress in that direction is stopped by a line on the parallel of 49°, established by the treaty of Utrecht more than a century ago. Now let those, who say this, prove it. The burden is upon them. The assumption, till shown, and satisfactorily shown, is purely gratuitous. And the proof must be reasonable, and such as suits the circumstances; not loose assertions, and quotations from historical works, without authority upon such a subject; and more especially when there are a vast number of circumstances of a positive and negative character, which discredit the establishment of such a boundary; and when the notices referred to seem to be repeated successively from one word to another, without any examination of their authenticity, and depending perhaps on one common and erroneous origin. Why, the very discussion, in which we are engaged proves the necessity of adhering to established principles. A suit for 12½ cents could not be maintained upon such proof as is here adduced, when so much better is within the reach of the parties. Two months are amply sufficient to procure from the archives of London or Paris evidence upon this subject, which would terminate the controversy. Until that is produced, I, for one, shall protest against the rights of our country being limited or affected by the assumption of a line, resting merely upon loose assertion, and upon deductions made from them.

With respect to the existence of this line under the treaty of Utrecht, what evidence not already considered, and, as I think, fairly refuted, has the

Senator from Missouri produced? I shall glance at, rather than examine, the facts he has brought forward.

First, he states that the British Indian traders asked as a favor to be permitted to trade in Louisiana south of 49, which was refused. The official communication of the British ministers, referred to in support of the above assertion, respecting this parallel, does not support it. The application was made under the treaty of 1794. Louisiana was acquired subsequently. No specific boundaries are alluded to, but a claim is made to trade with the Indians in Louisiana. But the honorable Senator states that Major Stoddart, who was then, I think, not Governor of Louisiana, but military commandant at St. Louis, in his Sketches of that country, speaks of its northern boundary as follows:

"The commerce of Crozat, by the terms of the patent, extended to the utmost limit of Louisiana in that quarter, which, by the treaty of Utrecht, in 1713, was fixed at the 49th degree."

I think I may safely appeal to the honorable Senator and ask him, whether he thinks such a mere assertion as this is entitled to any weight in the determination of this grave question? Major Stoddart says that, by the treaty of Utrecht, 49° was the northern boundary of Louisiana. But Major Stoddart was no original authority on such a subject, more especially at the distance of a century from the execution of the treaty. He had, no doubt, read the statement of Douglass, which I will again quote at the hazard of repetition, as it seems to have been the source of the opinion entertained respecting this matter. His language may be more or less traced in all the notices, that I have observed. He says, page 7:

"By the treaty, however, the Canada or French line with the Hudson Bay Company of Great Britain was ascertained from a certain promontory upon the Atlantic ocean, in fifty degrees thirty minutes of north latitude, to run southwest to Lake Mississin, to be continued still southwest to the forty-ninth degree, and from thence due west indefinitely."

But, sir, notwithstanding the reverence the honorable Senator from Missouri professes for the views of those who have preceded us in their action on this subject, he himself arraigns the conduct of Mr. Monroe, in concluding a convention with England in 1818, by which the parallel of 49° was established as the line of demarcation, between her western possessions and ours, east of the Rocky Mountains. He says "the treaty of Utrecht 'did for us what our own treaties did not.'" That convention was an act of supererogation, so far as it followed the line of Utrecht—an act of deep injury so far as it stopped it."

"The line of 49 degrees was just as well established, and just as well respected and observed from the Lake of the Woods to the Rocky Mountains, before that convention as after it. Nay, more, it was the understood line between the mountains and the sea, and would itself have settled the Oregon question, and settled it wisely and beneficially, if it had only been permitted to remain unmutated."

Then, sir, these *fifty-four-forties* are not the only persons, who have discredited the existence of this line, east of the Rocky Mountains. It has been authoritatively and practically disclaimed, and disavowed, and discredited, both by the British and American Governments. The act by which this was done he calls an act of "supererogation." I call it an act of wisdom, founded on the convic-

tion of both of the parties, that a line of demarcation between their respective territories, was necessary, and never had been established. The honorable Senator censures Mr. Monroe for this arrangement. But Mr. Jefferson is equally censurable, so far as respects *this work of supererogation*, for he made precisely the same offer to England in 1807. He, indeed, struck out a provision that the arrangement should not extend west of the Rocky Mountains; but he did this in order not to excite the jealousy of Spain.

The honorable gentleman, in the previous discussion of this matter, did not present this subject in the same point of view. After noticing the *projets* for the establishment of 49°, he says: "Here is concurrence in the proceedings of commissaries 'under the treaty of Utrecht.'" "Here is submission on the part of the British," &c. What was then *concurrence* and *submission* now becomes *supererogation*. But, sir, Mr. Jefferson's fame may be redeemed, and the credit of the American and British Governments for common sense supported, by reference to a very obvious consideration; and that is to a doubt respecting the existence of this line of 49°—a doubt which, in all probability, ultimately strengthened into conviction. The very view, which the honorable Senator now presents, was presented by myself in a former discussion, in order to prove that all the statesmen alluded to must have believed or suspected this celebrated line was a nonentity. This work, then, which occupied the attention of the two Governments at various intervals for ten years, was not a work of supererogation, but of prudence. I said: "But if 'by concurrence is meant, that this line was actually established by the treaty of Utrecht, and thus binding on the parties, no other convention was necessary. Both nations, upon this assumption, mistook their own rights and their duties. The boundary had been established a century before, and they were carrying on a useless and barren negotiation, which was thus blindly and unnecessarily ripened into a treaty in 1818.'"

The Senator introduces a memorial from Lord Selkirk, in which there is an allusion, although not a very clear one, to the treaty of Utrecht; but as it says expressly that "the stipulations of the 'treaty of Utrecht as to the limits of the Hudson Bay territories do not bear at all upon the question,'" and as this memorial is characterized by the American ministers as an *idle paper*, I shall not stop to examine it; especially as I know of nothing in the position or character of Lord Selkirk, which would give to his opinion any peculiar weight in the adjustment of this question. The establishment of a great national boundary requires better evidence, than the surmise of even a Scotch nobleman, who possessed no source of information, not open to all of us. We want facts, and not opinions, and facts authentically proved.

I pass by, also, the memorial of Messrs. Monroe and Pinckney to the Spanish Minister, because they repeat the same facts, in almost the same language, which were communicated by Mr. Madison to Mr. Monroe, and which have been traced back to Douglas. These gather no strength from repetition, and must be judged by the original authority, and not by the number of transcribers.

The honorable Senator has made a remark, in the justice of which, I fully concur. He says:

"That when a man is struggling in a just cause, he generally gets help, and often from unseen and unknown quarters."

He says "that timely assistance has come to him in this matter," and among these unforeseen contributions, he has introduced a letter from Mr. Pitkin to Mr. Webster, in which the writer sneers at my credulity, or pities it, I know not which, because I have placed myself upon the statements of Mr. Greenhow. I shall not turn out of my path to redeem myself from this charge of credulity, or what would be still less desirable, to escape the pity of Mr. Pitkin. I have more important objects in view. That gentleman refers to a conversation, which took place at the dinner table of Mr. Jefferson in 1806, in which that eminent man advanced the opinion, that by the treaty of Utrecht the parallel of 49° was established, as the boundary between the French and English possessions. The opinion of Mr. Jefferson gains no weight by this repetition of it. We had it before in a much more authentic form: in the letter of instruction from Mr. Madison, Secretary of State, to Mr. Monroe. I repeat, sir, we must pass by all these opinions, formed a century after the event to which they refer, and go to the original authorities, which are as open to us as they were to our predecessors, and with the additional benefit of a severe and long continued investigation.

Mr. Pitkin transmits also an extract from the work of Colonel Hutchins, which was presented by Colonel Pickering to Mr. Jefferson, and the Senator from Missouri seems to give importance to this additional testimony. It is still the same question—the question of repetition. I must make my acknowledgments, as well as the Senator from Missouri, to friendly contributors; and one gentleman, whom I will name—and he is not only a personal friend, but a man of reading and judgment, (Mr. Buel, of Detroit)—has investigated the subject with research and care, and has furnished me with the result of his labors. I owe to him an extract from Salmon's *Modern History*, published in 1746, which I will refer to. I shall place in juxtaposition the extract from Hutchins, furnished by Mr. Pitkin, by which it will be sufficiently evident, that these authorities are essentially the same, the latter being derived, in all probability, from the former:

From Salmon.

"And commissaries did afterwards settle the limits by an imaginary line drawn from a promontory situated on the Atlantic ocean, in 58 degrees 30 minutes, and running from thence southwest to the lake Misconsin, or Mistazan, and from thence southwest indefinitely to the latitude of 49; all the countries to the north being assigned to Great Britain, and all on the south, between that line and the river St. Lawrence, or Canada, to France."

From Hutchins.

"And commissaries afterwards, on both sides, ascertained the limits by an imaginary line, running from a cape, or promontory, in New Britain on the Atlantic ocean, in 50 degrees 30 minutes north latitude, then southwest to the lake Misgaring, or Mistassin; from thence farther southwest direct to the latitude of 49 degrees. All the lands to the north of the imaginary line being assigned to Great Britain, and all southward of that line, as far as the river St. Lawrence, to the French."

These extracts, sir, are similar in their state-

ments, and almost the same in their language. The one was parent, and the other offspring. There are but two differences—emendations made by Hutchins from his own views, or from information obtained elsewhere. One is the substitution of latitude $50^{\circ} 30'$, and the other is in changing *southwest indefinitely* to *southwest direct*. This unfortunate line has so many Protean shapes, that it eludes all attempts to seize it.

The Senator from Missouri says that "*this was, without doubt, the identical paper transmitted by Mr. Madison to Mr. Monroe;*" and he adds: "I mentioned that paper once before, when it was pretty well cried down by the Senator from Michigan, [Mr. Cass.] I mention it now again, and with hopes of better results."

My opinion on this subject remains unshaken. The identity of the language used by Mr. Monroe, in carrying into effect the instructions of Mr. Madison, with the language employed by Douglas, as I stated on a former occasion, leaves no doubt of their common origin. Let us compare them:

Mr. Monroe says:

"The boundary was ascertained by a line, beginning in the Atlantic, at a cape or promontory, in $58^{\circ} 30'$ north latitude; thence southwesterly to Lake Mistissin; thence further southwest to the latitude of 49° north from the equator, and along that line indefinitely."

Douglas says:

"The line was ascertained from a certain promontory on the Atlantic Ocean, in $58^{\circ} 30'$ of north latitude, to run southwest to Lake Mistissin, to be continued still southwest to the 49^{th} degree, and from thence due west indefinitely."

Now, sir, there is in these extracts a parity, not to say an identity, of language, which speaks their common origin. As Salmon was the authority for Hutchins, so was Douglas the authority for Mr. Monroe.

How the Senator from Missouri could refer to the extracts from Hutchins, in proof that a line was established by the treaty of Utrecht, west of the Hudson's Bay Company possessions, and still more, how he could refer to it as the foundation of the representation made by Mr. Madison and Mr. Monroe, is to me incomprehensible. Why, this line, according to Hutchins, expressly stops, when it reaches the parallel of 49° , and yet his authority is here introduced in support of the statement of its indefinite extension on that parallel, and its continuance as our boundary to the Pacific.

His line runs from Lake Misgasing or Mistassin directly southwest to the parallel of 49° . It will be found, by reference to the maps, that this lake is in latitude $50^{\circ} 30'$, (nearly), and almost north of Quebec. A line run thence southwest would strike the parallel of 49° , nearly north of Cornwall, in Lower Canada, and about two hundred and fifty miles from that place. The lake is itself one of the sources of Rupert's river, a confluent of Hudson's Bay. And the country divided by this line may be described, in general terms, as lying between Hudson's Bay and the Atlantic, north of the St. Lawrence. Thus confirming the reference made by Salmon, and by Hutchins after him, to the southern extension of the region, partitioned between England and France.

Now, sir, how stands this matter? Douglas said this line started from a promontory in $58^{\circ} 30'$, and run thence southwest to Lake Mistissin; thence southwest to 49^{th} degree; thence indefinitely west.

Salmon said the line started from a promontory in $58^{\circ} 30'$, and run thence southwest to the Lake Mascosink or Mistassin, and thence southwest indefinitely to the latitude of 49° .

Jeffreys said the line started in about the latitude of 56° , and drawing with it a curve (*mirabile dictu*) through the Lake Abitibis down to the 49^{th} degree; thence to the Northwest ocean.

Hutchins said the commissioners ascertained this limit by an imaginary line from a cape or promontory in New Britain, on the Atlantic ocean, in $50^{\circ} 30'$ north; thence southwest to Lake Misgasing or Mistassin; from thence further southwest to latitude 49° .

Messrs. Monroe and Pinckney said the line began in a cape or promontory in $58^{\circ} 30'$, to run thence southwesterly to 49° , and thence indefinitely west.

Here, sir, are no less than five different boundaries, referred to as established under the treaty of Utrecht. We cannot believe they are all correct. And which are we to choose? Are we to stop at 49° , with Salmon and Hutchins? or are we to go on indefinitely west with the other authorities? Is the course to be direct or curvilinear? These loose statements are altogether too doubtful, indefinite, and contradictory to be relied upon in such an investigation. They are practical illustrations of the wisdom of the principle, which requires the best evidence the nature of the case admits. That best evidence is at London and Paris. Let it be produced.

The honorable Senator acknowledges the receipt, in a letter from Mr. Kennedy, of an extract from the journal of the English House of Commons in 1714, showing that commissaries were appointed for settling the trade between England and France, and he deduces from that entry the conclusion, that commissaries were probably appointed at the same time to carry into effect the tenth article of the treaty of Utrecht, which relates to limits. There is no necessity to make this a matter of deduction. We have better evidence on the subject, to which I have before referred, and to which I will refer again. It is the statement of Father Charlevoix, the celebrated traveller, and historian of the French settlements in America, who was sent to this continent by the French Government to explore and describe their possessions. He says:

"The negotiations between the two Courts for the boundaries ceased, although commissaries had been appointed on both sides ever since the year 1719."

And this is corroborated, if the statements of such a man as Charlevoix needs corroboration, by De Mofras, who says, that—

"There does not exist in any written record, nor in any maps or charts, a single document showing that these frontiers (the boundaries under the treaty of Utrecht) ever were definitively established. And in 1722, all proceedings on this subject had been abandoned, according to Father Charlevoix, that not the least pretext might be given to violate the good understanding, which it had been found so difficult to establish between the two Crowns of France and England. The archives of the Office of Foreign Affairs contain no charter or memoir relating to the treaty of Utrecht, regarding these frontiers, nor do those of the Department of Marine; and thus the assertion of Charlevoix is fully sustained."

There is no doubt of the appointment of commissaries. There is no doubt they met and commenced their diplomatic discussions. *Projets* were

probably received and interchanged. And perhaps the discordance among the historians, to which I have already adverted, arises from their reference to these *papers*, and *counter papers*, and not to any final act of the commissaries. I repeat, sir, what I said on a former occasion, I do not presume to speak dogmatically on the subject. It is my opinion, from the proofs before me, that no line was finally settled under the treaty of Utrecht. This opinion I am ready to change whenever the present evidence is changed into evidence more satisfactory.

The honorable Senator says, that when the celebrated map of George III. is produced, a red line will be found on it about "a tenth of an inch wide," marked "Boundaries between the British and French possessions in America, as fixed by the treaty of Utrecht." I have only to say, sir, that I have already declared war against one red-lined map. Whether I shall do so against another, it will be time enough to determine, when I see it, and examine the circumstances connected with it.

So far, sir, this discussion respecting boundaries under the treaty of Utrecht has no practical bearing upon any question before us. But the Senator now carries the line west of the Rocky Mountains, a position not before assumed, and which, if established, will take from us almost one half of the Oregon territory. There is not one of the authorities, to whom he refers, who carries the line upon the parallel of 49° to the Northwestern ocean. The Senator says, indeed, that Jeffreys does, but the quotation he introduces from that author does not support this view. He seems to attach much importance to this authority; so much so, indeed, that I shall stop a moment to examine it.

"Thomas Jeffreys, Esq.," as stated by the Senator, "was geographer to his royal highness the Prince of Wales." He was a professed map maker, and he wrote a work, published in 1760, entitled "History of the French Dominions in North and South America." The Senator says: "He takes credit to himself for making it (the line of D'Anville) more favorable to the French than the French had made it for themselves." What changes he made, or upon what principles, are not shown. The remark is not calculated to increase our estimate of his accuracy.

The Senator says that "the latitude of 49° to the Western ocean is his limit of the British possessions." I will not assert, that there is any mistake here, for I cannot refer to the book, quoted by the Senator; but if the extract he gives contains all that Jeffreys says upon the subject, it certainly does not justify the constructor, thus given to it. Jeffreys, as quoted, says, speaking of the line:

"Beginning at Davis's Inlet, on the east coast of Labrador, or New Britain, in the latitude of about 56° degrees, and drawing with it a curve (certainly a very precise description of an important boundary) through the Lake Athabasca, down to the 49^{th} degree of north latitude; from thence to be continued to the Northwest ocean, as it was settled by Commissioners under the treaty of Utrecht."

Here is no continuance upon the parallel of 49° , but a continuance, without describing the course, after stating the parallel. If, however, Jeffreys intended to assert, that the line followed the parallel of 49° , he is at war with himself, and utterly unworthy of confidence. In his work, published seven years afterwards, in 1760, to which I have

already referred, he says: "Canada, according to the English accounts, is bounded north by the highlands which separate it from the country about Hudson's Bay," &c. "Its limits towards the west extend over countries and nations hitherto undiscovered." Here is neither 49° , nor the northwest ocean. But still further. In this work is a map of North America, exhibiting the boundaries between the British and French possessions. And upon this map is a line which commences in the Hudson's Bay regions, and runs thence about southwest, perhaps one hundred miles, nearly in the latitude of 48° ; thence northerly on a curvilinear course to a point north of 49° , and about north from the west end of Lake Superior, where that part of the map stops. It is a line, which evidently follows the highlands, as stated above by Jeffreys; because, with one exception, it divides the waters running north from those running south. And it is thus marked: "Bounds of Hudson's Bay by the treaty of Utrecht."

Douglas carries the line indefinitely west, and that expression might be rendered consistent with its termination east of the Rocky Mountains, because the western boundary of the Hudson Bay possessions (the limit of the British territory in that direction) was unknown.

I will not go over this matter, sir, but I will take the liberty of adverting to the synopsis of the considerations, connected with it, which I submitted to the Senate on a former occasion:

1. It is not shown that any line was established on the parallel of forty-nine to the Pacific ocean.

2. The country on the northwestern coast was then unknown, and I believe unclaimed; or, at any rate, no circumstances had arisen to call in question any claim to it.

3. The British negotiators in 1818, and their minister here in 1844, fixed upon the voyage of Captain Cook, in 1778, as the commencement of the British title to what is now called Oregon.

4. The treaty of Utrecht provides for the establishment of a line, between the British and French colonies, including the Hudson Bay Company. The British held nothing west of the company's possessions, which, by the charters, included only the "lands, countries, and territories" on the waters running into Hudson's Bay.

5. If England established this line to the Pacific ocean, she can have no claim south of it; and this kind of argument *ad hominem* becomes conclusive. And let me add, that I owe this argument to my friend from Missouri, [Mr. Atchison,] to whose remarks upon Oregon, the Senate listened with pleasure and with profit some time since.

6. How could France and England claim the country to the Pacific, so as to divide it between them in 1713, when, as late as 1790, the British Government, by the Nootka convention, expressly recognised the Spanish title to that country, and claimed only the use of it for its own subjects, in common with those of Spain?

To these I will now add—

7. Nootka Sound is north of latitude 49° . If the limits under the treaty of Utrecht established that parallel as the southern boundary of the British possessions to the northwest ocean, how happened it that, in the great controversy of 1790, between

Spain and England, this conclusive fact was never adverted to by one party, nor by the other? Strange, indeed, that so decisive a consideration should have escaped the observation of the Spanish statesmen; and still more strange, that it should have escaped the searching investigation, which the subject underwent in the British House of Commons, by Pitt and Fox, and the other master spirits of that day. The controversy could not have existed, if this discovery had been then made.

So would this question stand if Spain had been a party to the treaty of Utrecht, or had been bound by any arrangement made by France and England, for the establishment of a line between their respective territories. But the fact is, that any such arrangement for the partition of the country west of the Rocky Mountains was impossible, from the circumstances of the times, and from the position of those three Powers. The treaty of Utrecht terminated the long and bloody war, which arose out of the Spanish succession. Louis XIV succeeded in placing his grandson, Philip V, upon the throne of Spain. France and Spain were closely connected, and had fought the war together. They were allies, and the enemies of England. The Spanish jealousy of that and of the following age, respecting the Spanish possessions, especially those upon the Pacific, is well known; and, at that time, no other Power interposed an adverse claim to that region. It is utterly incredible, that in such a state of things, France would consent to the extension of the British possessions to the northwest coast, and least of all, that she would make herself a party to such a flagrant act of injustice. It was not a single treaty of Utrecht, which put an end to the war. There were different treaties formed. The one between France and England was a treaty of peace, and also a treaty for the regulation of commerce, and for the establishment of boundaries. That between Spain and England was a treaty of peace and commerce only, and contained no stipulations respecting boundary. An effort by France and England, to divide the country upon the northwest coast between them, would have been resisted by Spain, as an act of war. Instead of any such effort, this pretension of their right to appropriate to themselves a country unknown to them, now seriously asserted in the American Senate, has been unrevealed to the world, till called into existence at this late day, and announced without any real evidence to support it, as a means of settling a controversy about limits, in a region, which neither France nor England had explored, and to a foot of which they never laid claim.

I shall briefly allude to one other topic, and then abandon this discussion. While I was happy to hear the honorable Senator avow his determination to support the recommendations of the President in his annual message at the commencement of the present session on the subject of Oregon, I deeply regretted to find, at the same time, that in the far most important point, he differs essentially from the President, and proposes a course, which, it seems to me, is not only impolitic and unusual, but which will necessarily lead to the loss of one-half of the country in dispute, and may lead to a division of the other half. The President proposes the assertion of our jurisdiction over Oregon. The

honorable Senator proposes its assertion over only about one moiety of Oregon. This is a fundamental difference, which no argument can reconcile. The extent of the Oregon of the President is known to all of us. It is the same Oregon which excites such deep solicitude among the American people. It is bounded north by the parallel of 54° 40', as announced by Mr. Buchanan in a letter to the British Minister, dated July 12, 1845. It is the same Oregon, which is claimed by the British, and over which they have extended their jurisdiction. But the Oregon of the honorable Senator stops at 49°; his line dividing what neither nature nor political rights destined to a division.

And why, sir? why does the honorable Senator, in opposition to the repeated declarations of the American Government, and to the strong feeling of the American people, erect a barrier upon the parallel of 49°, saying, Thus far you may come, but no farther? Why does he insist upon a legislative annunciation, which, while it could not give us the country to that parallel, would forever deprive us of all hope of the country beyond? If this question is placed upon the ground of expediency, and if that artificial line upon the surface of the globe is assumed as a reasonable line of compromise—reasonable because dividing the country into two nearly equal parts, and because it has been several times offered by the American Government to the British Government as a limit of concession—then I find no fault with those, who take this view of the matter, and who propose thus to terminate the controversy. He who believes, that both parties have an equal title to the territory in question, or that any obligation is created by offers of compromise heretofore made and rejected, may well look upon the parallel of 49° as a just and equitable line of partition. I repeat, I find no fault with this view of the matter. But this is not the view of the Senator from Missouri. *He says the parallel of 49° is the line of right, "resulting from the treaty of Utrecht."* "Thus," says the Senator, "the line of right is the best for both parties," &c. "Forty-nine is the line of right with me," &c.

And why is this the line of right? Because it was established by the treaty of Utrecht. If not thus established, it is no line of right. And he, who seeks so to establish it, must prove it. Let the honorable Senator prove it. I submit to him, if the loose and contradictory notices, he has brought forward, are sufficient proofs of the existence of a great line of national demarcation, under any circumstances, and still less, under existing circumstances, contradicted as they are by the highest considerations, and by the most respectable authorities. I submit to him, whether it is wise to stop his country's pretensions, without the most irrefragable evidence, that his country is wrong.

Is there such evidence? The Senator refers again to the progress of this negotiation, and invokes the acts of Mr. Jefferson and of Mr. Madison, as indicative of their opinions. I shall not go over this ground, only recalling, that all this was before the Florida treaty, and before the discovery of the error, respecting the line of Utrecht. Our rights have since then been extended by purchase, and made known by correct historical investigations.

The Senator says:

"It is the line of right, resulting from the treaty of Utrecht, and as such, always looked to, in the early stages of this controversy, both by American and British statesmen, as the ultimate basis of settlement and boundary between the countries." "It is the line of all the American statesmen, without exception, twenty and forty years ago."

Nov., sir, here is a great error, and I am going to prove it. I am going to prove, that this parallel of 49° was not the line of all the American statesmen, twenty and forty years ago. Nay, more, sir; I am going to prove it was not the line of the Senator himself. And he has given proof, by long years of services, of his right to the title of an eminent statesman. The task is an easy one. *To the law and to the testimony.*

In the very first negotiation, in 1818, upon this subject, after the war, and before the acquisition of Florida, in the statement of the claims of the United States, Messrs. Rush and Gallatin "did not assert that the United States had a perfect right to the country, but insisted that their claim was at least good against Great Britain."

In 1823, Mr. Monroe proposed to England and Russia, as I have already shown, that the parallel of 51° should be our northern boundary.

Mr. Rush, in a communication to Mr. Adams, dated August 12th, 1824, informed him that in his interview with the British ministers, he had claimed for the United States, "in their own right, and as their absolute and exclusive sovereignty, the whole country west of the Rocky Mountains from the 42d degree to at least as far up as the 51st degree of north latitude."

He says likewise, in the same communication, that "the claims of the United States above the 42d parallel, as high up as 60°—claims as well in their own right as by their succession to the title of Spain—would henceforth necessarily preclude other nations from forming colonial establishments upon any part of the American coast."

Mr. Rush, in the course of the discussion, remarks: "It was clear, by the treaty of Paris, of 1763, her territorial rights (those of Great Britain) were bounded west by the Mississippi."

It is not among the least remarkable incidents of this remarkable controversy, that in the American Senate, the existence of this line, even west of the Rocky Mountains, is so peremptorily asserted, that all who but doubt and call for evidence, are parties to a *pie poudre insurrection, a puddle lane rebellion*, which spreads from a clerk in the Department of State to this dignified body, having organs big and little. Happily for the truth of history "it now dies," says the honorable Senator, "the death of the ridiculous." And yet the two Governments, who conduct and are responsible for the negotiation, totally discredit and disregard this line, not only by a most contemptuous silence, leaving it out of the discussion, but by asserting pretensions, utterly inconsistent with its existence. Many a weapon has recoiled, and many an anticipated victory has been turned into a defeat. King Priam is not the only man, whose spear fell without effect, *Telumque inselle sine ictu coniecit*. "Let not him that girdeth on his armor boast, as he that putteth it off."

On the 18th of August, 1842, the honorable Senator from Missouri delivered a speech in this body, on the subject of the Ashburton treaty, in which he entered at some length into the consideration of

our title to Oregon. In that speech, he stated that the line of 49° was established by the treaty of Utrecht, as a line between France and England, and that we, as the successors of France, were entitled to the benefit of it against England. He did not at all consider this line as limiting us to the north; for he expressly says that, "without giving us what we were entitled to by the right of discovery, and as the successors of Spain, it would still take from Great Britain all she wanted."

"No," as is in latitude 50°, being four degrees north of the Columbia, and to that degree did Spain assert and maintain her title against Great Britain in 1790. But this was not the extent of that right. Against the British she asserted it to the whole extent of the coast; against the Russians, (the only real claimants with ourselves in that quarter,) to latitude 55°." WHAT BECOMES OF THE BRITISH CLAIM NOW?"

This is certainly going jam up, or I do not know what jamming is.

"Thus, as claiming from Spain, our title is good against England, throughout the whole coast; against Russia to latitude 55°."

"Our title is clear, that of the British null. She sets up none; that is, she states no derivation of it. There is not a paper upon the face of the earth, in which a British Minister has stated a title, or even a claim. They have endeavored to obtain the country by the acts of diplomacy, but have never stated a title, nor ever can state one."

"No, sir, no. Great Britain relies on her own audacity, and our mercantile love of peace. Her title is her will and her arms."

On the 2d of February, 1843, the honorable Senator, in a debate upon the Oregon bill, says, "I grant that Great Britain will take offence at us, but that is not the question with me. Has she a right to take offence? That is my question, and that being decided in the negative, I neither fear nor calculate consequences." "Courage will head her off. Fear will bring her upon us. The assertion of our rights will command her respect; the fear to assert them will bring us her contempt."

In a speech in the Senate, on the 12th of January, 1843, the honorable Senator said, "as a fact, that treaty (the Nootka Sound treaty) nullifies all British claim on the northwest coast; as a law, (if not abrogated by war,) it would still confine them to the pursuit of hunting and fishing. The treaty of 1819, by which we acquired all the Spanish title north of 42°, has given us all the benefits of the Nootka Sound treaty, both as a fact and as a law; and tested by either, the British are excluded from the northwest coast of America, for all the purposes of settlement or colonization."

Now, sir, I thank the honorable Senator, because he does not get angry with us fifty-four-forties. It is not for me to reconcile these views with the position he now occupies. I confess I am too simple for that. And though I take the nostrum recommended by him, and rub my eyes, and rub again, I am

* The Senator from Missouri, in some remarks immediately following this speech, stated that this observation respecting the British title, had reference to the valley of the Columbia; while I accompany the extract with this limitation, as an act of justice. I may be permitted to remark, that it does not at all affect the conclusions at which I arrive. The Senator assumes as a postulate, that the parallel of 49° is the line of right, which bounds our Oregon. But the valley of the Columbia extends probably four degrees north of that limit, and by claiming the whole of that valley, this line is just as much nullified, as a line of right, as it would be by going to 54° 40', or to any distance beyond.

still encompassed with darkness visible. I suppose it is because I cannot *distinguish between things and words*.

On the 27th of May, 1827, Mr. Gallatin announced to the British commissioners (a fact I have already referred to, but which I must again introduce in this connexion, even at the hazard of repetition) that "his Government did not hold itself bound hereafter in consequence of any proposal, which it had made for a line of separation between the territories of the two nations west of the Rocky Mountains; but would consider itself at liberty to contend, in their fullest extent, for the claims of the United States."

If this does not mean, that the preceding offers of 49° and of 51° were offers of compromise, claiming less than we were entitled to, then language has lost its force, or I my power to comprehend it.

In the session of Congress of 1827-28, a bill was reported in the House of Representatives asserting our jurisdiction to 54° 40'.

On the 30th of August, 1845, the American Secretary of State, in a despatch to the British Minister, says:

"Upon the whole, from the most careful examination which the undersigned has been able to bestow upon the subject, he is satisfied that the Spanish American title, now held by the United States, embracing the whole territory between the parallels of 42 degrees and 54 degrees 40 minutes, is the best title in existence to this entire region."

Now, sir, who has a right to say, that since 1818, any one Administration of the American Government, or any member of that Government, has considered the parallel of 49°, as the extreme northern limit of our claim? It is obvious, that that line has been offered as a line of compromise, of concession, of conciliation, and not recognised as an existing boundary.

Well, then, sir, we claim north of 49°. We may differ in our estimate of the nature of this claim, and of the strength of our title. To some it may appear so clear as to justify our assertion of it as a boundary at all hazards. While to others it may appear doubtful, and a proper subject for negotiation and compromise. I do not object to this. But I do object, and strenuously too, to any attempt on the part of the Senate to discredit this claim, whatever it may be. It seems to me unwise, impolitic, indeed unconstitutional, if not dangerous. The Executive, in his negotiations with a foreign Government, for the settlement of a great question of boundary, asserts our title to a given limit. The matter is *sub lite*, to be settled by the pen or by the sword. Does it become Congress to make a formal declaration, for such, in fact, the proposition of the honorable Senator amounts to, that 49° is our northern boundary, and that the President and

his predecessors have demanded more than we are entitled to? For it is obvious, that when the Senator proposes to establish the boundary by treaty, but that till it is so established, the parallel of 49° shall be regarded as our northern limit, all the country to the north is at once abandoned. England comes to 49° by our act, and a proposal for compromise will be for her, in effect, a proposal to divide the region to the south. So far she is sure. She has the best of the bargain, for we begin by ceding to her one-half of the territory, without the slightest consideration on her part. The disposition of the other half must abide events.

This is not the way, in which men conduct their affairs in private life. We should form but a poor estimate of the wisdom of the man, who, claiming a tract of land, should commence a controversy by saying to his opponent, This whole land is mine, but I will begin by yielding to you one-half of it. Now, let us go to work to make a compromise for the other half. But the proposition of the Senator, if I understand him, is to be a legislative ultimatum. It is a direct interference with the Executive functions. We had better leave the matter where the Constitution has left it, and where it can be much better managed, than by congressional interference.

But what could be gained by this course under any circumstances? England claims an undivided moiety of the Oregon territory. If we appropriate to ourselves the whole country south of 49°, without her consent, we are just as sure to have a contest with her, as if we extended our jurisdiction north of that line. We should place ourselves in no better position by this act of concession. It would be made equally without consideration and without benefit. By the assertion of exclusive jurisdiction, within whatever limits, we forcibly evict England from her possessions; and let it be the whole or a moiety, we equally interfere with her claim. We must negotiate or come into contact. And if we are to come into contact, let it be for the whole. What Englishman discredits an English claim? During the progress of this whole controversy, no man in England doubts the title of England. He may be prepared to compromise; but while he does this, he compromises in his opinion by concession. He claims to 42°; but if he agrees to retire across the Columbia river, he does so in a *spirit of moderation*. We may draw lessons of wisdom and of patriotism, too, from other nations. My own sentiments are known. I desire to go to 54° 40', and I should prefer the bill with that specific boundary. But I would accept it with indefinite limits, leaving the whole adjustment to the President. If the amendment of the Senator prevails, I shall vote against it.